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February 4, 2011

Hon. Bernard Zimmerman
Magistrate Judge
U.S. District Court for the N.D. of California
450 Golden Gate Ave.
San Francisco, CA 94102

RE: Plaintiff's Response to Defendants' Letter Brief regarding Plaintiff's Subpoenas; *Digby Adler Group LLC v. Image Rent A Car, Inc. et al.*, 3:10-cv-00617-SC

Dear Judge Zimmerman:

Defendants' letter seeks to distract the Court from Defendants' complete failure in responding to discovery.

Plaintiff initially sought relevant documents from Defendants through written discovery. Only when Defendants completely shirked their discovery obligations, was Plaintiff forced to incur the expense of drafting and serving subpoenas to obtain basic documents—documents that are also in Defendants' possession, but which they have refused to produce. Specifically, Plaintiff has served the following subpoenas:

Subpoena Recipient	Date Notice Given to Mr. Huebner	Date of Service to Subpoenaed Party	Method of Notice to Mr. Huebner
Google, Inc.	December 9, 2010	December 14, 2010	Email & First Class Mail
Network Solutions, LLC	December 9, 2010	December 13, 2010	Email & First Class Mail
Alexander Almonte, Esq. P.C.	January 5, 2011	January 6, 2011	Email
Kline Van and Specialty Rental, LLC	January 5, 2011	January 10, 2011	Email
Mastercard International Incorporated	January 7, 2011	January 10, 2011	Email
American Express Company	January 7, 2011	January 10, 2011	Email

As this chart shows, Plaintiff provided Defendants' counsel with notice of the subpoenas to Google and Network Solutions by email and U.S. Mail before they were served on the third parties. Plaintiff provided notice of the latter four subpoenas by email, also before these subpoenas were served on the third parties. Notification of

subpoenas by email is a common practice in the Ninth Circuit and comports with Federal Rule of Civil Procedure 45(b)(1).

Moreover, it's disingenuous for Defendants' counsel to claim that he did not receive proper notice of the latter four subpoenas by email when: a) he is required to review his email for ECF filings, and b) he has regularly communicated by email with Plaintiff's counsel (including paralegal Sumeena Birdi) throughout this litigation.

The Court should not let Defendants' letter distract from Defendants' complete discovery failures.

Respectfully submitted,

KRONENBERGER BURGOYNE, LLP

s/ Jeffrey M. Rosenfeld

Jeffrey M. Rosenfeld